



THE COMMONWEALTH OF MASSACHUSETTS  
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November 16, 2005

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The Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street NW  
Washington, DC 20423

Re: National Solid Waste Management Association, et al.  
Petition for Declaratory Order, Docket No. FD-34776

Dear Secretary Williams:

On or about October 27, 2005, the National Solid Waste Management Association along with New Jersey State League of Municipalities, City of Newark, and others filed the above-referenced Petition. They seek a declaratory order that the application of New Jersey and local solid waste laws to a solid waste processing facility located adjacent to a rail line in New Bergen, New Jersey, is not preempted by the Interstate Commerce Commission Termination Act of 1995, 49 U.S.C. § 10501(b). The Petitioners seek to establish a clear statement of statutory interpretation that the representative solid waste facility, and any other similarly situated facility, is not within the exclusive jurisdiction of the Board.

We understand that the New York, Susquehanna, and Western Railway Corporation has filed a Reply arguing that the Board should reject the Petition and that the New Jersey Attorney General's Office will file today papers urging the Board not to institute declaratory order proceeding on this Petition. As the Petition may have ramification on the application of Massachusetts laws on similarly situated facilities and activities within the state, we, on behalf of the Massachusetts Attorney General's Office and the Massachusetts Department of Environmental Protection, request that in the event that the Board does institute declaratory order proceeding, the Board schedule a comment period to allow interested parties, such as Massachusetts, an opportunity to consider and submit comments on the Petition.

Thank you for your attention and consideration in this matter.

Very truly yours,

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